

## **Monitoring the Trial of Emmanuel Toto Constant: July 9<sup>th</sup> 2008: Jury Selection**

Judge Gerges asked for a jury selection pool of up to 75 people. Judge Gerges addressed the two lawyers and gave a brief introduction and review of procedures for the day, including:

1. Yesterday a "Molineaux" was requested [which introduces witnesses to past bad deeds]. Judge Gerges is deferring a decision on that and will later interview the witnesses. In the interim, their names are not to be mentioned.
2. There will be press coverage. Judge Gerges plans to caution the jury potentials that this is the case, make sure they are ok with it, and will refrain from reading or letting it decide things for them.
3. Judge Gerges plans to ask the jury pool for anyone from or with a family member from a Caribbean nation and dismiss anyone with Haiti connections that could indicate bias.
4. The charge: Grand larceny in the 2nd degree, 6 counts in the indictment; counts 7 and 8 were dismissed. Three properties are involved, from Feb 8 2002, June 9, 2005, one involving Louise Brown from Sept 10, 2005. The case involves allegations of a mortgage fraud scheme involving several properties.

Judge Gerges greeted the jury pool, reviewed charges, likely hours and that he expects the trial to last 10 working days and began screening potential jury members. 4 potential jurors were dismissed due to their familial connection to the Caribbean. 1 potential juror dismissed, because the person knew who Emmanuel Constant was, though did not know Mr. Constant personally. 1 potential juror dismissed, because the person was familiar with the streets and/or property in question during the trial. 1 potential juror dismissed, because the person was familiar with the case. 3 potential jurors dismissed, because they were unable to commit to screening what media they might read/view during the trial. No one was dismissed for knowing any of the lawyers, the judge or any of the witnesses. 2 potential jurors were dismissed, because they had a problem interpreting the law according to Judge Gerges' instructions. About 20 potential jurors were dismissed, because they believed a 10 day trial would pose extreme hardship to them. 3 potential jurors had experience with mortgage foreclosures. Judge Gerges met with each privately but did not dismiss them.

The Attorney General's representative's asked the 18 remaining potential jurors the following questions:

1. Does anyone here own a home? have a mortgage? Was the closing pleasant? Did you understand the proceedings? Did you have any difficulties? Do you have any complaints?
2. For people who had served on a jury before: Did you get to deliberations? Did you reach a verdict?
3. Taking a juror who had identified himself as a programmer, the AG representative queried his understanding of a chain of events, and chained complexities with different

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roles played by different actors, and then generalized this to the whole panel. Does everyone understand how a scheme could work?

4. Some witnesses will be police officers. Will this prejudice you for or against their testimony?
5. Some witnesses will be convicts and/or admit to having committed crimes. Will this prejudice you for or against their testimony?

The defense attorney interacted with the jury pool, picked on some individuals and asked the following questions:

1. All agree that the defendant is presumed innocent?
2. How do you evaluate someone you just listen to?
3. Why might someone lie?
4. Does everyone think they would be good at evaluating if someone is lying?
5. Defense may put on no witnesses, nor ask the defendant to testify. Jury will hear only one side of the argument then: Can you still evaluate fairly? Will you hold failure of defendant to take the stand against him?

8 jurors were sworn in. The remaining 10 potential jurors were dismissed and asked to return the following morning.

## **July 10<sup>th</sup> 2008: Jury Selection Continues**

12 additional jurors were selected and sworn in on this day. They will return on Monday, July 14th for the opening of the trial.